

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiffs,

vs.

MARIELA D. CALDERON,

Defendant.

8:12CR313

MEMORANDUM AND ORDER

This matter is before the court following an objection, Filing No. [70](#), to the order of the magistrate judge, Filing No. [68](#), denying defendant's motion to compel production of exculpatory evidence, Filing No. [60](#). The magistrate judge ruled on the motion to compel. Thereafter, the defendant filed an amended motion to compel, which in essence restates her original motion to compel. Filing No. [70](#). The magistrate judge construed this amended motion as an objection to his order. See Filing No. 72. The court will review the record and determine if the magistrate judge is clearly erroneous or contrary to law. [28 U.S.C. § 636\(b\)\(1\)\(A\)](#).

In her motion to compel, the defendant moved the court for an order requiring the disclosure of exculpatory and impeachment evidence. The government responded stating, it is "not aware of any exculpatory and/or impeachment evidence separate and apart from discovery material previously provided or made available to the defendant for inspection." Filing No. [67](#). As a result, the magistrate judge denied the motion to compel, noting for the record the responsibilities of the government to make timely and complete disclosure and also noting that the government acknowledged its duty to

supplement discovery if any Rule 16 information becomes available. Accordingly, the court finds the magistrate judge is correct in all respects and will affirm his order.

THEREFORE, IT IS ORDERED:

1. The defendant's motion to compel production, Filing No. [60](#), is denied.
2. The motion to amend, also now designated as an objection to the magistrate's order, Filing No. [70](#), is denied.
3. The order of the magistrate judge, Filing No. [68](#), is affirmed.

Dated this 30th day of January, 2013.

BY THE COURT:

s/ Joseph F. Bataillon
United States District Judge